1	EDWARD C. DUCKERS (SBN 242113)		
2	STOEL RIVES LLP 111 Sutter Street, Suite 700		
3	San Francisco, CA 94104 Telephone: (415) 617-8900		
4	Facsimile: (415) 676-3000 E-mail: ecduckers@stoel.com		
	G		
5 6	Attorneys for Defendants David Plummer Spencer Plummer and Strategic Opportunity Solutions, LLC		
7			
8	UNITED STATES I	DISTRICT COURT	
9	NORTHERN DISTRICT OF CALIFORNIA		
10	GREGORY R. RAIFMAN, individually and as Trustee of the RAIFMAN FAMILY	Case No. C 07-2552 EDL	
11	REVOCABLE TRUST DATED 7/2/03, SUSAN RAIFMAN, individually and as	RESPONSE OF DAVID PLUMMER, SPENCER PLUMMER AND	
12	Trustee of the RAIFMAN FAMILY REVOCABLE TRUST DATED 7/2/03, and	STRATEGIC OPPORTUNITY SOLUTIONS, LLC, TO MOTION	
13	GEKKO HOLDINGS, LLC, an Alaska limited liability company, dba GEKKO BREEDING	TO STAY	
14	AND RACING,	Hearing Date: Tuesday, July 31, 2007 Hearing Time: 9:00 a.m.	
15	Plaintiffs,	Courtroom: E, 15th Floor	
16	v.	The Honorable Elizabeth D. Laporte	
17	CLASSICSTAR, LLC, a Utah limited liability company, CLASSICSTAR FARMS, LLC, a		
18	Kentucky limited liability company, BUFFALO RANCH, a business entity form		
19	unknown, GEOSTAR CORPORATION, a		
20	Delaware corporation, S. DAVID PLUMMER, SPENCER D. PLUMMER III, TONY		
21	FERGUSON, THOMAS ROBINSON, JOHN PARROT, HANDLER, THAYER &		
22	DUGGAN, LLC, an Illinois Limited Liability Company, THOMAS J. HANDLER,		
23	KARREN, HENDRIX, STAGG, ALLEN & COMPANY, P.C., a Utah professional		
24	corporation f/k/a KARREN, HENDRIX & ASSOCIATES, P.C., a Utah professional		
25	corporation, TÉRRY L. GREEN, and DOES 1-1000 inclusive,		
26	Defendants.		
27			
28			

RESPONSE OF DAVID PLUMMER, SPENCER
PLUMMER AND STRATEGIC OPPORTUNITY
SOLUTIONS, LLC, TO MOTION TO STAY

### INTRODUCTION

While the Plummers and Strategic Opportunity Solutions, LLC do not oppose, and in fact support, the Motion to Stay proceedings in this Court until the Multidistrict Litigation Panel rules on the Motion to combine this with other litigation before an MDL Judge, the Memorandum In Support of the Motion contains several misstatements of fact which are addressed herein.

## RESPONSE TO STATEMENT OF BACKGROUND

From the time the GeoStar owners, Tony Ferguson, Thom Robinson, and John Parrott bought what became ClassicStar from David Plummer, GeoStar controlled the receipt and expenditure of all money related to the mare lease program. For all but a brief period is 2004 when Thom Robinson assumed that role, Tony Ferguson was the Managing Member of ClassicStar LLC and he directed and controlled the activities of David and Spencer Plummer. GeoStar was continuously informed of all sales activity and was aware of the number of mares that needed to be acquired in order to meet the commitments that had been made to mare lease participants. At least one third of all mare lease plan sales were made directly by Ferguson or his Florida based sales team. The Plummers did not have independent access to the money contributed by participants and could not, without the approval of GeoStar, purchase additional thoroughbred mares. While David and Spencer Plummer repeatedly requested authority and money to purchase additional mares, GeoStar opted to use much of the money for purposes unrelated to the mare lease business.

It was not until 2003, when other initiatives by ClassicStar to gain control of sufficient thoroughbred mare breeding seasons proved unsuccessful that non-thoroughbred performance horses began to be used in some participants' mare lease packages. A lease arrangement with Buffalo Ranch which was signed on Classic Star's behalf by Tony Ferguson, Managing Member, that provided for a relatively modest down payment followed by a commitment to pay tens of millions of dollars on a subsequent date which, if not paid, would result in the mares being returned to Buffalo Ranch, free and clear. Similar leases were executed by Ferguson for four different breeding seasons. In each case, ClassicStar failed to make the large payment at the end of the lease term resulting in the return of the performance horse mares to Buffalo Ranch. The

-2-

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	İ
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	

lease agreements between ClassicStar and Buffalo Ranch were initially drafted by attorneys who represented GeoStar. These were the same attorneys who drafted the documents creating First Equine Energy Partners, LLC ("FEEP"). At all times GeoStar Equine Energy, Inc., has been the managing member of FEEP, a corporation of which Tony Ferguson is the president.

## PLUMMERS' POSITION WITH REGARD TO THE STAY MOTION

Despite the unwarranted effort of GeoStar/ClassicStar in its motion to shift blame to the

Plummers, the Plummers and Strategic Opportunity Solutions agree that the litigation brought by mare lease participants that is now pending in several districts is appropriate for MDL treatment. It would be a waste of scarce of resources to continue litigation in this district while the MDL Panel reviews ClassicStar's application. Accordingly, the Plummers and Strategic Opportunity Solutions, LLC, support the Motion for Stay.

DATED: July // , 2007

Respectfully submitted:

STOEL RIVES LLP

Edward C. Duckers

Attorneys for Defendants David Plummer, Spencer Plummer and Strategic Opportunity

Solutions, LLC

Seattle-3376536.1 0055012-00005

#### PROOF OF SERVICE

I declare that I am over the age of eighteen years and not a party to this action. I am employed in the City and County of Sacramento and my business address is 770 L Street, Suite 800, Sacramento, California 95814.

On July 16, 2007, at Sacramento, California, I served the attached document(s):

# RESPONSE OF DAVID PLUMMER, SPENCER PLUMMER AND STATEGIC OPPORTUNITY SOLUTIONS, LLC, TO MOTION TO STAY

on the following parties:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Richard J. Idell, Esq. Elizabeth Juliana Rest, Esq. Ory Sandel, Esq. Idell & Seitel LLP 465 California Street, Suite 300 San Francisco, CA 94104

Fred M. Blum, Esq.
Bassi Martini Edlin & Blum LLP
351 California Street, Suite 200
San Francisco, CA 94104

John Somers Blackman, Esq. Farbstein & Blackman 411 Borel Avenue, Suite 425 San Mateo, CA 94402-3518

- BY FIRST CLASS MAIL: I am readily familiar with my employer's practice for the collection and processing of correspondence for mailing with the U.S. Postal Service. In the ordinary course of business, correspondence would be deposited with the U.S. Postal Service on the day on which it is collected. On the date written above, following ordinary business practices, I placed for collection and mailing at the offices of Stoel Rives LLP, 770 L Street, Suite 800, Sacramento, California 95814, a copy of the attached document in a sealed envelope, with postage fully prepaid, addressed as shown on the service list. I am aware that on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing contained in this declaration.
- BY FACSIMILE: On the date written above, I caused a copy of the attached document to be transmitted to a fax machine maintained by the person on whom it is served at the fax number shown on the service list. That transmission was reported as complete and without error and a transmission report was properly issued by the transmitting fax machine.
- BY HAND DELIVERY: On the date written above, I placed a copy of the attached document in a sealed envelope, with delivery fees paid or provided for, and arranged for it to be delivered by messenger that same day to the office of the addressee, as shown on the service list.
- BY OVERNIGHT MAIL: I am readily familiar with my employer's practice for the collection and processing of correspondence for overnight delivery. In the ordinary course of business, correspondence would be deposited in a box or other facility regularly maintained by the express service carrier or delivered to it by the carrier's authorized courier on the day on which it is collected. On the date written above, following ordinary business practices, I placed for collection and overnight delivery at the offices of Stoel Rives LLP, 770 L Street, Suite 800, Sacramento, California 95814, a copy of the attached document in a sealed envelope, with delivery fees prepaid or provided for, addressed as shown on the service list.
- (Federal Courts Only) I declare that I am employed in the office of a member of this court at whose direction this service was made.

26

27

28

Seattle-3376536.1 0055012-00005

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this document was executed on July 16, 2007, at Sacramento, California.

Deborah L. Pennington

RESPONSE OF DAVID PLUMMER, SPENCER PLUMMER AND STRATEGIC OPPORTUNITY SOLUTIONS, LLC, TO MOTION TO STAY Seattle-3376536.1 0055012-00005